UNITED
NATIONS

CRC

Convention on the
Rights of the Child

Distr.
GENERAL

CRC/C/SR.177
17 October 1994

Original: ENGLISH

COMMITTEE ON THE RIGHTS OF THE CHILD

Seventh session

SUMMARY RECORD OF THE 177th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 11 October 1994, at 10 a.m.

Chairperson: Ms. BADRAN

CONTENTS

Consideration of reports of States parties (continued)

Argentina

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.94-19335 (E)

The meeting was called to order at 10.30 a.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Argentina (CRC/C/8/Add.2; CRC/C.6/WP.1)

1. At the invitation of the Chairperson, Mr. Paz and Mr. Alvarez (Argentina) took seats at the Committee table.

2. The CHAIRPERSON welcomed the delegation of Argentina. She noted that an additional written report had been received, albeit with a delay that had precluded its translation from Spanish, in response to the Committee's request for all relevant information on the measures adopted to ensure the effective implementation of the Convention, in particular in areas covered by the list of issues (CRC/C.6/WP.1).

3. Mr. PAZ (Argentina) apologized for the unavoidable absence of the head of his delegation, Mr. Sanchez Arnau. He explained that the response to the Committee's request for additional information had been delayed for a few months in order to prepare more comprehensive and up-to-date replies. Events had been moving rapidly in Argentina since the beginning of 1994. After four years of efforts to overcome the difficult legacy of three decades of sporadic dictatorship involving suspension of the Constitution, an updated version of the Constitution had been approved on 22 August 1994. Moreover, international human rights treaties ratified by Argentina now enjoyed constitutional ranking and formed part of efforts to prevent a repetition of past tribulations. Intense activity was under way to modify existing or create new and appropriate legislation. The volume of additional information before the Committee was a measure of that undertaking. His delegation, which included Mr. Alvarez, President of the National Council for Children and the Family, would do its best to enlighten members of the Committee on all matters of concern to them.

4. The CHAIRPERSON invited the Argentine delegation to respond to questions 1 to 9 in the first part of the list of issues (CRC/C.6/WP.1), which read:

"General measures of implementation
(Arts. 4, 42 and 44, para. 6, of the Convention)

1. Upon ratification, Argentina made reservations (reflected namely in paras. 29 and 62 of the report) concerning article 21 (b), (c), (d) and (e), as well as article 24, paragraph 2 (f). In the spirit of the World Conference on Human Rights, which encouraged States to consider reviewing any reservation with a view to withdrawing it (see A/CONF.157/23, II, paras. 5 and 46), please provide information on whether the Government is considering the need of maintaining those reservations or the intention of withdrawing them.

2. Please provide details about the process of preparing the national report, in particular, with regard to popular and non-governmental organizations' involvement.

3. What concrete measures have been taken or are foreseen to make the report on the implementation of the Convention widely available to the public at large, in the light of article 44, paragraph 6, of the Convention?

4. What measures have been envisaged to create widespread awareness among the population, including children themselves, about the principles and provisions of the Convention? What specific training has been conducted, including for professional groups working with and for children?

5. Has a National Plan of Action been adopted to realize the Universal Declaration on the Survival and Development of Children?

6. What is the status of the Convention in relation to the Constitution, and national and provincial laws? Can the provisions of the Convention be directly invoked before the courts (see paras. 16, 67 and 68 of the report)?

7. Please provide information on the steps taken to harmonize the national and provincial legislation with the Convention on the Rights of the Child.

8. Please provide further information on the composition and competence of the National Council for Children and the Family, namely in the field of coordination, evaluation and monitoring of the Convention, at the national and provincial levels.

9. Please describe steps taken to implement article 4 of the Convention, namely in regard to the allocation 'to the maximum extent of the available resources', to ensure the implementation of economic, social and cultural rights."

5. Mr. ALVAREZ (Argentina) said that a crucial milestone in the history of human rights in his country had been the incorporation in national legislation of the Convention on the Rights of the Child, together with the eight other international human rights instruments ratified by Argentina, at both the federal and provincial levels. It was the task of the National Council for Children and the Family to ensure that the rights enshrined in the Convention were extended to children and families nationwide, without discrimination or distinction of any kind.

6. The Convention on the Rights of the Child had been adopted unanimously by Congress and the Senate in 1990. The reservation and interpretative declarations which had been made at the time of signature and ratification and whose withdrawal was not at present envisaged were deemed by the national authorities to extend, rather than limit, the applicability of the Convention and thereby to reinforce the fundamental principle of the child's best interests, enforceable in Argentina's view from the time of conception up to the age of 18.

7. The best interests of the child, central to article 3 of the Convention, had long occupied a prominent place in national doctrine and jurisprudence

with regard to juveniles. Considerable efforts had been made to establish the status of a child, both as a subject of, and as an entity recognized by, fundamental law.

8. In Argentina, the child's inherent right to life, and the concomitant rights to physical integrity and dignity in all situations, were seen as being closely interrelated with the right to an identity and to be identified. Indeed, identity was a fundamental principle, relevant both to what differentiated individuals from one another and also to the individual's links with family, community, society and Nation.

9. Argentina also attached particular significance to the responsibilities incumbent on the State under articles 8, 7 and 20, paragraph 3, concerning continuity in a child's upbringing as a prerequisite for successful placement or adoption. More generally, the State had an important role to play whenever the family broke up or failed to meet the child's needs.

10. As to the right to the highest attainable standard of health, detailed information, together with statistics and basic indicators, would be found in the supplementary report, as well as an account of the new federal legislation on education. He also called attention to the 20-point programme drawn up by the Federal Council for Children and the Family early in 1994 to govern policy-making and implementation in many areas up to the end of the century.

11. Mr. HAMMARBERG said that, to be meaningful, any discussion of the rights of the child and of the Convention itself must be carefully structured and factually oriented. It was to that end that the Committee had drawn up its general guidelines regarding the form and content of initial reports (CRC/C/5), guidelines which, unfortunately, had not been followed in Argentina's initial report. Moreover, for reasons which he did not altogether understand, the report omitted to cover a number of the Convention's articles. Nor was it an excuse to claim that Argentina's federal structure and a certain autonomy on the part of the provinces with regard to implementation made reporting difficult. In a decentralized system (Spain, whose report had been discussed a few days before, was another case), it was the responsibility of the central authority to respect the obligations that devolved from instruments it had ratified. The central authority must also ensure that in national reports to the Committee there were no grey areas or omissions due to limitations in the mandate of the agency or agencies to which the supervision of implementation had been delegated. Argentina's supplementary report distributed to members of the Committee left question 30 in the list of issues unanswered. There was also an erroneous reference, in the reply to question 27, to article 2 rather than 29 of the Convention.

12. Argentina's initial report (CRC/C/8/Add.2) had not dealt with general measures of implementation. It had been the Committee's hope that the written replies to the list of issues would provide factual information, thus paving the way for a discussion on progress made, problems encountered, and prospects and priorities for further attempts to guarantee the rights of the child. His reading of the initial report and rapid perusal of the voluminous supplementary report, received only the previous day, had failed to provide much enlightenment on problems or analysis, and revealed a notable lack of self-criticism. The enumeration of legislative measures and the outline of

plans were no doubt of interest, but difficulties should also be placed squarely on the table for discussion. To put some of the unanswered questions bluntly: what was the Argentine Government doing to ensure that both the letter and the spirit of the Convention were actually bringing about changes for the country's children? Did educational policy actually promote the spirit of the Convention? Were all those whose daily work was with children trained to advance its objectives? Were there any plans for an ombudsman to deal with questions involving children? How was the quantitative monitoring of improvements effected, in order to ensure that policies were adjusted as appropriate? How were the budget processes at the federal and provincial levels linked to the all-important provision of article 4 of the Convention ("maximum extent of ... available resources")? It seemed to him, disappointingly, that a meaningful exchange on those and many other issues of concern to the Committee still remained to be set in motion.

13. Mrs. SANTOS PAIS observed that Argentina had played a very positive role in the field of the rights of the child, beginning with its active involvement in the drafting of the Convention, and the important provisions on the right to identity in particular. It was also encouraging to see that a lot of work had gone into the preparation of Argentina's replies to the list of issues raised by the Committee.

14. The process of constitutional reform, referred to by the Argentinian delegation, was most encouraging, particularly in the light of the importance it attached to the best interests of the child. Efforts to safeguard the child's right to identity and to enhance family relations were of crucial importance. In that context, she hoped that the dialogue initiated with the State party would enable the Committee to gain a better understanding of the situation in Argentina. It would have been useful for that dialogue, from both the Committee's and the delegation's points of view, if the Committee could have received the considerable amount of additional information at an earlier stage so as to enable it to assess the actual situation and take all the information into consideration.

15. During the process of constitutional reform in Argentina it might have been useful to take the opportunity to reconsider the reservation made by the State party on article 21 of the Convention. Her concern in that respect was related to the right of the child to preserve his identity and the right to promote good family relations. According to the reservation, article 21, paragraphs (b)-(e), could not apply in Argentina because it was felt that there must first be a mechanism to ensure the legal protection of children in matters of intercountry adoption in order to prevent the trafficking and sale of children. Bearing in mind the aim of provisions of the Convention to protect children and the subsequent Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption, it might be appropriate at the national level to state that standards and safeguards were essential in that area rather than to make no reference at all to them, particularly in a country such as Argentina, where there had in the past been cases of abduction of children and irregularities in the registration of children. In conclusion, she asked whether the delegation of Argentina considered that the reservation on article 21 was still necessary, or whether the article could be interpreted in much the same way as article 38, in the light of article 41 of the Convention.

16. Mgr. BAMBAREN GASTELUMENDI requested further information on the mode of operation, in the various provinces in Argentina, of the National Council for Children and the Family and the National Association of Juvenile Court Judges.

17. Past events in Argentina had created a special awareness of human rights and, consequently, a favourable climate for their promotion and dissemination prevailed. In that respect, it was interesting and encouraging to note that a considerable number of NGOs were officially affiliated with the National Council for Children and the Family. In connection with the child's right to identity, and in view of past events in Argentina during which children had disappeared, he would like to know what mechanism had been established to resolve those cases and to enable children who had been the victims to regain their identity.

18. Mrs. SARDENBERG, referring to Argentina's initial report and the problems arising in any attempt to reflect the overall situation in a federal State, said that report appeared to be sectoral rather than national. At the same time, the dialogue on the basis of the report offered an opportunity to the State party to demonstrate to the Committee the democratic nature of the country's federal system, which reflected the diversity of its component provinces, and in that way to provide a clearer overall picture of the situation of children throughout the country.

19. One element which had been absent from the initial report was a critical evaluation of the difficulties facing the Government in relation to implementation of the Convention. In the light of such difficulties in the different centres, the Committee could, if they were portrayed clearly, act as a channel to discuss relevant areas of international cooperation and technical assistance, particularly in relation to UNICEF.

20. The initial report, in conjunction with the supplementary information, provided a fairly complete picture of the actual situation, supported by statistics and specific responses to the list of issues. It was unfortunate that it had been received at such a late stage. However, the information provided clearly reflected the political willingness of the Argentine Government to promote the rights of the child.

21. It would be useful for the Committee to have a general overview of the situation with regard to the rights of the child in Argentina. More specifically, the Committee should have, first, a clearer picture of the structure of the Government, the position of the National Council for Children and the Family within that structure and the way it operated, the ministries involved and decision-making powers, and methods of determining budgetary allocations for matters relating to the rights of the child. Secondly, information on the preparation of the report would be welcome, mentioning the bodies involved and describing the way in which it was intended to disseminate its contents and to reflect the discussion held with the Committee. Thirdly, she requested information concerning the interrelationship between the provisions of the Convention and the way in which they were being implemented under the National Plan of Action.

22. Ms. BELEMBAOGO requested further information on the coordination of activities and programmes related to implementation of the Convention at the

national level, and on the composition and role of the National Council for Children and the Family. Would it be possible for that body, possibly with institutional support from ministries and other bodies, to undertake the task of coordination, evaluation and follow-up of the Convention at national level? On the question of reservations, she asked whether, following the discussion currently under way with the Committee, the Argentine Government might not deem it appropriate to give further consideration to the question whether it was necessary to maintain its reservation.

23. Mr. KOLOSOV, recalling that the Committee had, during its discussions with other States parties, encountered situations similar to that of Argentina in that they had been at a transitional stage, said it was important to ensure that the living standards of children were not jeopardized on the grounds of the general situation. In that context he requested information on efforts to prevent any deterioration of that nature and any progress achieved.

24. Mr. ALVAREZ (Argentina) thanked, on behalf of the children of Argentina, all the members of the Committee for their questions and comments, which were aimed at contributing to the defence of the rights of the child in general.

25. In response to the comments made by Mr. Hammarberg, he pointed out that the State party had endeavoured to supplement the information provided in the initial report, albeit at a late stage, by means of the additional information currently before the Committee. That information contained responses to the list of issues and supplemented the initial report which, in paragraph 4, had indicated its inherent limitations. The supplementary report contained official statistical data, obtained in cooperation with the National Institute of Statistics and prepared for the purpose of identifying specific indicators relating to the situation of children and families. For that purpose, an expert meeting of the National Council for Children and the Family and the National Institute of Statistics had been held in December 1993. The Committee was therefore invited to consider the initial report of Argentina in conjunction with the supplementary information. Indeed, it was intended at the national level to publish jointly the initial report and the supplementary information, together with any comments or information arising from the discussion with the Committee.

26. Concerning the question of the exploitation of children, also raised by Mr. Hammarberg, the response to question 11, contained in the supplementary report, drew attention to current legislation concerning the employment of minors and gave statistical data on the unlawful employment of minors. Generally speaking, the employment of minors under the age of 14 was prohibited, and special regimes had been established for minors between the ages of 14 and 16, and 16 and 18 respectively. A special programme to combat the exploitation of children specifically addressed four types of situation: (1) begging by minors for the benefit of adults; (2) prostitution; (3) incitement, by adults, of minors to commit criminal offences; and (4) employment in the informal sector, particularly in the non-industrial field. The programme was being implemented in Buenos Aires, Rosario and Cordoba, and consisted of parallel activities directed at children being exploited, families at risk, and the identification of adults involved in such exploitation. In addition, activities in aid of street children were being undertaken.

27. His Government considered that the training of personnel dealing with children constituted a fundamental element in the practical implementation of the Convention. A special training centre had been established in Buenos Aires under the responsibility of the National Council for Children and the Family, with an initial annual budget of 1 million dollars, for the purpose of providing theoretical and practical training to a wide range of personnel operating at different levels. Those personnel were members of NGOs and provincial and municipal governmental institutions in different parts of the country. In addition to activities at the centre, training efforts were being made through a number of programmes, many with international cooperation. In recent years, a training element had been included in all cooperation programmes.

28. The importance of having specific statistics to guide decision-making and management in the various areas concerned had been recognized. One problem in Argentina had been that, save for statistics on school attendance and birth and death rates, there were no reliable statistics available, only estimates. An agreement had therefore been concluded between the National Institute of Statistics in Buenos Aires and the provincial bodies to carry out research into specific indicators. Experts from ECLAC had given advice on preparing the indicators, which were listed in the supplementary information. Data regarding the national budget were also provided in the supplementary report. The provinces and municipalities had their own budgets and their own resources, out of which they paid for the actual operation of schools. For education and culture in general, the national budget for 1995 allocated 2,757 million pesos. The allocation for social welfare was 1,366 million pesos, most of which would go to families with young children and could therefore be regarded as spent largely on children. The allocation for health services was 1,019 million pesos, of which it could be estimated 50 per cent would go to children and situations that affected them. He could not give details for all the provincial budgets, but the province of Buenos Aires, which was the largest province in Argentina and estimated to account for one third of the country's child population, had assigned 367 million pesos to education and culture and 453 million pesos to social welfare. There were specific allocations for children at risk, in conflict with the law or in situations covered by article 20 of the Convention, which were directly controlled by the National Council for Children and the Family. A large proportion of those resources went directly to families and children, as shown in the bar chart in the reply to question 9 in the supplementary report.

29. In response to the question whether Argentina was considering the possibility of withdrawing its reservation to articles 21 (b), (c), (d) and (e), he reaffirmed the overriding importance attached by his country to the prevention of trafficking in, and the sale of, children. The Hague Convention regulating intercountry adoption had been adopted after Argentina's reservation had been entered, and its complicated nature was delaying its consideration by Congress. Although Argentina had participated in the related meetings in Latin America, it had not signed the Inter-American Convention on the Adoption of Children. Congress was concerned primarily to draft a law that would punish and prevent trafficking in children. He would have liked to be able to present that legislation to the Committee, but the separate texts published by the Chamber of Deputies and the Senate needed to be coordinated.

He was sure that, at the next session of the Legislature, a law would be enacted aimed above all at penalizing the unsavoury intermediaries who engaged in the traffic in children purely for profit.

30. There was, however, another important reason for the reservation, which related to article 20 of the Convention, in particular its last paragraph, which stated that, in considering solutions such as adoption, due regard should be paid to the child's ethnic, religious, cultural and linguistic background. In the view of Argentina, that provision was intimately concerned with the identity of the child, which, under article 8 of the Convention, States undertook to respect.

31. The fact that Argentina had reservations on article 21 did not mean that it was not prepared to cooperate in the protection of children forced to leave their home country. There was a long tradition of acceptance of children into Argentine families, not just from neighbouring countries but from other continents. For example, through the National Council for Children and the Family, families of Croatian, Serbian and Bosnian origin in Argentina had offered to take in children from the former Yugoslavia, undertaking to provide them with bilingual nursery education and religious teaching by ministers of their own faith. More recently, Argentine families had offered to receive children from Rwanda. In that case, the offers had come from private individuals and it would be more difficult to guarantee linguistic continuity, but the principle of the child's identity would be respected. The reservation on the Convention would not affect Argentina's willingness to take children from all over the world and care for them while according full respect to the provisions of article 20.

32. The organization and operations of the National Council for Children and the Family were described in the report, but he had also brought with him a copy of the instrument setting up the Council, which he would give to the Chairperson. The multiple functions involved in government action in support of children at risk or in need of care demanded careful integration. A collegiate body had been established, bringing together representatives of the system of justice, the Government Procurator for Juveniles, the specialized technical welfare bodies and NGOs which defined programmes for children and determined each sector's participation in their execution. The NGOs which participated voluntarily, helped in the monitoring and evaluation of programmes as well as the training of personnel. They had two elected representatives on the Council, one for the organizations concerned with children at risk and one for those concerned with children who were disabled. The Council had set 20 goals for the implementation of the Convention, to be met by the year 2000.

33. The National Association of Juvenile Court Judges, to which Mgr. Bambaren Gastelumendi had referred, was composed of national and provincial judges specializing in juvenile justice. It held an annual congress at which jurisprudence and the interpretation of the law in regard to juveniles were discussed. The Association also held closed meetings, at which it analysed international standards such as the Beijing and Riyadh Rules, and the Havana Rules on the treatment of children deprived of liberty. Recently, the members of the Association had studied and commented in great detail on the text of the Hague Convention.

34. Mgr. Bambaren Gastelumendi had also referred to the sore topic of enforced disappearances in Argentina and the ensuing unlawful appropriation of children. Those events were still a matter of deep concern in Argentina and were dealt with at the highest federal level of the Judiciary. Basically, the judgements rendered had restored the children to the families who had claimed them, although in some cases they had consented to their remaining with the family who had taken them in good faith, provided the child's blood relations agreed and there were proper arrangements for visiting rights. It was concern over the illegal deprivation of children of their identity that had prompted Argentina to propose the wording of article 8 which had ultimately been incorporated in the Convention and emphasized the importance of re-establishing that identity speedily. Doctrine and jurisprudence coincided in Argentina in emphasizing the child's best interest lay in recovering that identity at the earliest possible age, so that he would not have to sue on his own account on reaching his majority. Children who were restored to their families received an allowance from the State and support for their education. Families also received support, in the form of technical help and, where necessary, psychological treatment.

35. Mrs. Sardenberg had mentioned the difficulty, in a federal and decentralized State, of preparing a centralized reply to an international body. Several speakers had pointed out that there was no account of the obstacles and difficulties encountered by Argentina in implementing the Convention. All those who worked with children knew that constant efforts were needed to overcome the social and economic factors that could limit the full enjoyment of children's rights. A political strategy had been devised to that end, aimed at overcoming the underlying reasons for the difficulties encountered in providing the conditions for a decent life. The achievement of monetary stability and bringing inflation under control had been great advances. Progress had been made in the fulfilment of basic needs and poverty had been greatly reduced, though the scourge of unemployment remained. The strategy had already borne fruit: in the latest UNDP report on human development, Argentina had ranked thirty-seventh. That was a significant achievement and he was confident that further economic reorganization would allow it to move still further up the list.

36. In response to the question about the interaction of the various Ministries involved in any way with protecting children, he said that the Ministries of Health and Education were concerned with basic rights common to all children. In both sectors there had been increasing decentralization in recent years. Currently, pre-primary, primary, and secondary education and all health matters were in the hands of the provincial or municipal governments. The Ministry of Health played a normative role and was also responsible for such special programmes as PROMIN, the programme for mothers and children. The Ministry of Education also set standards, through the Federal Council of Education. The Social Welfare Department was no longer a part of the Ministry of Health but was directly responsible to the President of the Republic. The National Council for Children and the Family acted as a decentralized and financially autonomous body in the area of social development. That whole complex organizational structure was supplemented by State agencies such as the police, which were answerable to the Ministry of the Interior, and the courts which, though independent, were linked to the

executive through the Ministry of Justice. The report itself had been drafted by the Ministry of Foreign Affairs, with contributions from the various State entities concerned.

37. In reply to the question about the dissemination of the Convention and of the national report, he said that the Convention had been widely disseminated in Argentina. The Ministry of Education was currently engaged in a campaign addressed to specialists in which the Convention was discussed article by article, together with the need for legislative reform to comply with its terms. References to that and other campaigns would be found in the supplementary report. The dissemination of the report itself, however, was awaiting the Committee's conclusions. All activity in regard to the Convention was closely linked to the Plan of Action for Children that had been developed in response to the World Summit for Children held in New York in 1990. The Plan was currently being put into effect, with the support of UNICEF and the Inter-American Development Bank, as well as NGOs and Argentine professional associations. The most recent act had been the signing of a Federal Pact for Mothers and Children by the President and all the provincial governors in March 1994. An Educational Pact had also been formulated, aimed at a joint provincial and federal effort to improve education in Argentina.

38. There was a possibility that a permanent body would be set up to monitor the fulfilment of the Convention, which ranked as a part of the Constitution. He had discussed with legislators the possibility of modifying some or all of the reservations entered by Argentina, but a two-thirds majority of both houses would be needed to modify the constitutional status of an international treaty incorporated in national legislation.

39. In reply to the question about what was being done to prevent a decline in children's living standards, he said that the constant effort to improve them was reflected in Argentina's rank in terms of human development. The ambition remained, however, to do more for children, not just materially but in terms of justice and the relationship of children to society. Where children could be regarded as chattels, subject to exploitation and ill-treatment by adults, no country, no matter how highly developed, could be regarded as being in conformity with the Convention.

40. The CHAIRPERSON invited the members of the Committee to put additional questions to the Argentine delegation.

41. Mr. KOLOSOV said that, according to a UNICEF report, 4 million Argentine children under 18 had belonged to households living in poverty in 1990; it would be useful if the Argentine delegation could confirm or correct that figure.

42. Mr. HAMMARBERG said that he welcomed the many encouraging recent developments in Argentina. He would also welcome further information about budgetary trends, with emphasis on the relationship of social expenditure to other budget areas. Article 4 of the Convention addressed the question of political support for children within society; of particular interest to the Committee were the ways in which political decisions were taken about children. It would be useful to develop measures which would allow informed political discussions of the role of the child to take place.

43. Argentina should also consider the measures it might take to ensure that the provisions of the Convention were implemented throughout the country, without encroaching on the independence of the provinces. It was incumbent on authorities to put measures into effect for monitoring compliance with the Convention.

44. Argentina should also provide further clarification on the reasons for its reservations on articles 21 and 24 (f). As to the latter, which concerned the provision of family planning services, it was not his view that countries that had ratified the Convention without reservations would consequently allow the State to intervene in the private matters of the family.

45. The CHAIRPERSON suggested that the Argentine delegation should also incorporate figures on the inflation rate and the increase in population into its response to the question raised by Mr. Hammarberg about budgetary trends.

46. Mrs. SANTOS PAIS said that governmental structure must not be used to justify failure to meet the terms of the Convention. Despite the generally beneficial effect of autonomy on a province, mechanisms should be developed to ensure that the Convention was implemented equitably throughout the country so that a minimum standard would apply for all its children.

47. It was indeed encouraging that Argentina accorded constitutional rank to the Convention and also that, in light of the Vienna Convention on the Law of Treaties, it recognized that international legal instruments took precedence over national legislation. Argentina had asserted that the ratification of an international treaty implied a commitment on the part of States to incorporate the provisions of that instrument in national legislation. It had, however, adduced the importance of article 20 in order to justify its reservation on article 21. The Convention should be read as an integral text, all of whose parts were equally essential. Article 20 posited that the child's identity should be safeguarded in any and all circumstances, and that, in any placement of a child in an alternative family, including national and international adoption, his cultural, religious and linguistic identity should be a major concern. Article 21 stipulated that any system of adoption must protect the best interests of the child, and that notion necessarily also involved the preservation of his identity, as provided for in article 20. The reservation on article 21 endangered several of the Convention's main principles. First it threatened the essential notion that the child should whenever possible remain in his community and country, and only as a last resort be put up for international adoption. Secondly, it removed the safeguards and standards that would obtain in the case of intercountry adoption. Thirdly, it stood to create problems in the assessment of improper financial gain arising from intercountry adoption. Fourthly, it would undermine any international bilateral agreements with neighbouring countries in that regard. It thus failed to protect the best interests of the child, and left the identity question unresolved. If an adoption did occur, what provision ensured that the name and family relations of the child would not be changed, and that the views of the child and his biological parents would be considered? Should the conclusion be drawn that children were never abducted for intercountry adoption in Argentina? While laws were not the only solution, they set a framework for all concerned. She exhorted the Argentine authorities to reconsider their reservation on article 21.

48. Mr. KOLOSOV said that he vigorously supported the views of Mrs. Santos Pais. The reservation on article 21 was a grave matter, concerning not only Argentine children adopted by foreign families but also foreign children adopted by Argentine families.

49. The CHAIRPERSON invited the Argentine delegation to respond to the additional questions raised.

50. Mr. ALVAREZ (Argentina) said that in 1989, before the change of Government the inflation rate had been 3,870 per cent per annum; by 1993, however, it had dropped to 10 per cent, and by 1994 to less than 5 per cent. That trend had been accompanied by a significant yearly increase in the gross national product. Those two indicators, taken together, signified a substantial improvement in living conditions for the poor. Furthermore, the UNDP Human Development Report for 1994 stated that 5 million Argentines lived in poverty; of those, 40 per cent, or 2.5 million, were children. The decrease in the number of children living in poverty was significant, but obviously there was still plenty of scope for improvement.

51. The portion of the national budget allocated to education had grown considerably; indeed, education as a means towards fundamental growth was a national priority, and 20 per cent of the budget was automatically earmarked for that purpose. Furthermore, an important structural change had taken place in overall social expenditure: health and education programmes had been decentralized, and the portions of the budget allocated to those areas transferred to the provinces and municipalities. As a consequence, bureaucratic outlay had decreased and assistance to families, children and NGOs had increased.

52. The Argentine Constitution, the Constitution of a federation of provinces established national law and international legal instruments as the supreme law of the Nation and stipulated that the provinces must conform to them, regardless of any contradictory provision in their legislation. Furthermore, in 1992 the Supreme Court of Justice had ruled that an international treaty ratified by Argentina was binding. That decision in effect gave the Convention on the Rights of the Child the force of national law. It was therefore in force in all areas of the country, whether or not the provinces had incorporated its provisions into their legislation. To date, however, 14 provincial constitutions had been amended to bring them into line with the Convention.

53. By way of clarification, he said that Argentina had entered a strict reservation - or a limitation on enforceability - only on article 21, subparagraphs (b), (c), (d) and (e); subparagraph (a) had been fully endorsed and had served as the basis for a recent reform of domestic legislation on adoption. The other cases were in fact interpretive declarations, which did not release Argentina from its obligations under the Convention but rather established the terms by which those provisions applied in that country. The rationale for the declarations made in relation to articles 1 and 24 had been fully explained in international forums such as the recent International Conference on Population and Development in Cairo.

54. Article 38 allowed recruitment into the armed forces of children over the age of 15; the accompanying declaration was meant to ensure that endorsement of that article did not indicate that it was lawful to enlist Argentine children aged 15 for military service, especially in the light of article 41, which stipulated that the Convention would not prejudice any domestic provisions that were more conducive to the realization of the rights of the child than its own provisions.

55. With regard to articles 20 and 21, there was no prohibition of the adoption of foreign children by Argentine families. There were currently 127,000 foreign children in Argentina, from neighbouring countries; with such an influx of children, it would be senseless to bar their adoption. Argentina had not, however, endorsed the provisions of the Convention that recognized the intermediary function of the State with regard to intercountry adoption. He would communicate the concerns of the Committee to Argentine lawmakers. In any event, while acknowledging the need to respect the cultural identity of each child, Argentina would receive with open arms any child from anywhere in the world.

The meeting rose at 1.10 p.m.